

Page 10

1 J. Diroche  
 2 Q. Was your regular workweek six days?  
 3 A. Yes.  
 4 Q. How many hours per day did you work?  
 5 A. Twelve hours. From seven to seven.  
 6 Q. Did there come a time when your hours  
 7 were reduced to 48 hours?  
 8 A. Yes.  
 9 Q. When was that?  
 10 A. 2006.  
 11 Q. When in 2006?  
 12 A. I don't remember the date.  
 13 Q. Do you remember whether it was early in  
 14 the year of 2006?  
 15 A. Yes. Around there.  
 16 Q. Could it have been February of 2006?  
 17 A. More or less. Around there.  
 18 Q. When your hours were reduced to 48  
 19 hours in February of 2006 how many days per week  
 20 did you work?  
 21 A. Five.  
 22 Q. Is that five days per week?  
 23 A. Yes.  
 24 Q. How many hours per day did you work on  
 25 each of the five days?

TSG Reporting - Worldwide 877-702-9580

Page 11

1 J. Diroche  
 2 A. Four days at ten hours a day. And one  
 3 day at eight.  
 4 Q. Were you paid by check?  
 5 A. Yes.  
 6 Q. Were you paid by check for the entire  
 7 time that you worked for defendants?  
 8 A. Lunch hour was always missing.  
 9 Q. Were you always paid by check?  
 10 A. Yes. Check and cash.  
 11 Q. How much were you paid in cash?  
 12 A. Fifteen. \$20.  
 13 Q. Who gave you the cash?  
 14 A. The check was inside the envelope.  
 15 The supervisor would give it to me -- Raj.  
 16 Q. In the complaint in paragraph 12 it  
 17 states that you were paid 20 to \$70 a week in  
 18 cash. Is that correct or incorrect?  
 19 A. That's incorrect.  
 20 Q. Did anyone tell you why you were  
 21 receiving this cash?  
 22 A. No one told me.  
 23 Q. Did you ever ask anyone why you were  
 24 receiving this cash?  
 25 A. I did not ask. I figured it was for

TSG Reporting - Worldwide 877-702-9580

Page 12

1 J. Diroche  
 2 the extra hours I worked.  
 3 Q. Did there come a time when you stopped  
 4 receiving cash?  
 5 A. In 2006 when I was working.  
 6 Q. Did anyone tell you why you stopped  
 7 receiving cash?  
 8 A. No.  
 9 Q. Did you ever ask anyone why you stopped  
 10 receiving cash?  
 11 A. No.  
 12 Q. Did you stop receiving cash at the same  
 13 time that your hours were reduced in February of  
 14 2006?  
 15 A. No. Before that.  
 16 Q. How long before that?  
 17 A. I don't remember.  
 18 Q. Isn't it a fact that you stopped  
 19 receiving the cash because the company started  
 20 paying for your lunch hour?  
 21 A. No.  
 22 Q. Did your paycheck have a stub that  
 23 listed the number of hours that you worked?  
 24 A. Yes.  
 25 Q. Did your paycheck list what your hourly

TSG Reporting - Worldwide 877-702-9580

Page 13

1 J. Diroche  
 2 rate of pay was?  
 3 A. They put it on the check, but not  
 4 completely.  
 5 Q. I was asking whether it contained your  
 6 hourly rate of pay?  
 7 A. Yes.  
 8 Q. And did it list overtime hours on this  
 9 stub?  
 10 A. Yes.  
 11 Q. And do you understand what time and a  
 12 half is?  
 13 A. No.  
 14 Q. Do you understand that if you work over  
 15 40 hours in a week you must be paid time and a  
 16 half of your hourly rate?  
 17 A. If I would have known that I would have  
 18 told them -- claimed it.  
 19 Q. Do you know if you received a higher  
 20 rate of pay for hours you worked over 40?  
 21 A. No.  
 22 Q. In your lawsuit against the defendants  
 23 what hours are you claiming defendants did not pay  
 24 you?  
 25 A. The lunch hour.

TSG Reporting - Worldwide 877-702-9580

Page 42

Page 43

1 A. Pena

2 A. None.

3 Q. Have you ever taken a sick day?

4 A. Never. I only suggested that because I  
5 have heard about that in other companies. That's  
6 why. It doesn't matter.

7 Q. Isn't it a fact that you have been paid  
8 for sick days when you did not work?

9 A. Never. I have never had a sick day.

10 Q. Have you ever left your job to go to a  
11 doctor?

12 A. No, sir.

13 Q. Have you ever taken any vacation days  
14 during the time you have been employed by the  
15 company?

16 A. Day off that they give me.

17 Q. Anything else?

18 A. 2004 when I was in Santo Domingo for  
19 about a month.

20 Q. When in 2004 were you in Santo Domingo?

21 A. I don't remember exactly, but I think  
22 it was during the summer.

23 Q. Since October of 2003, have you visited  
24 Santo Domingo at any other time other than the  
25 trip in 2004?

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1 A. Pena

2 A. No, sir.

3 Q. Since October 2003, have you traveled  
4 outside the United States?

5 A. No, sir.

6 Q. Have you taken any time off from your  
7 job to visit any place in the United States  
8 outside of New York City?

9 A. No, sir.

10 Q. Isn't it a fact since February of 2006  
11 you have been paid for your lunch hour?

12 MR. FAILLACE: Objection. He  
13 already answered.

14 MR. WALKER: No, he didn't. I  
15 never asked that question.

16 MR. FAILLACE: You asked it  
17 earlier, but go ahead. You can answer it  
18 again.

19 A. Can you repeat the question?

20 Q. Isn't it a fact since February of 2006  
21 the company has paid you for your lunch hour?

22 A. No, sir.

23 Q. Isn't it a fact that prior to February  
24 of 2006 you received cash to pay for your lunch  
25 hour?

TSG Reporting - Worldwide 877-702-9580

Page 44

Page 45

1 A. Pena

2 A. No, sir.

3 Q. During 2007, you testified you received  
4 your check on Friday; is that correct?

5 A. Yes, sir.

6 Q. At what time of day do you receive your  
7 check?

8 A. Whatever hour the supervisor leaves it.

9 Q. Isn't it a fact it would be after four  
10 p.m.?

11 A. I couldn't tell you. It's at the  
12 office. I just go and look for it. I never see  
13 him when he leaves.

14 Q. I understand. Isn't it a fact you  
15 don't arrive at the garage until four p.m. to  
16 start work?

17 A. I work there -- I arrive there at four  
18 o'clock on the dot.

19 Q. So you get your check after you arrive  
20 at four p.m.; isn't that correct?

21 A. I find it there, yes.

22 Q. Do you cash your check on the same day  
23 that you receive it?

24 A. No, sir.

25 Q. Where do you cash your check?

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1 A. Pena

2 A. Sometimes the cashier, but I always  
3 deposit it in my bank account.

4 Q. Where is your bank?

5 A. Now I have my account at Washington  
6 Mutual.

7 Q. Is the Washington Mutual branch that  
8 you have your account in near the garage where you  
9 work?

10 A. No, sir. There is no bank around  
11 there.

12 Q. Are there any restaurants near the  
13 garage where you work?

14 A. No, sir.

15 Q. Are there any delicatessens or bodegas  
16 near where you work?

17 A. Bodega.

18 Q. Have you ever left your job to buy  
19 anything at this bodega?

20 A. No, sir.

21 Q. Do you receive tips in connection with  
22 your employment?

23 A. Yes, sir.

24 Q. Have you ever given these tips to any  
25 supervisor of yours at the company?

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Page 14

R. Rojas

Q. I am trying to understand what hours they did not pay for. So far I understand your testimony is you were not paid for five hours of lunch per week. And I understand that you say you were not paid for the one hour for working after 10. Is there anything else besides those that you were not paid for?

A. No, sir.

Q. Are you paid by a paycheck from a company?

A. Check. Yes, sir.

Q. Have you been paid by a paycheck since 2003 when you started work?

A. Yes, sir.

Q. Does the stub attached to the paycheck have certain information about the hours you worked?

A. Yes, sir.

Q. And did it have information about your hourly rate of pay?

A. Yes, the minimum. That's what they pay.

Q. Did it have information on there about the hours you were paid at an overtime rate?

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Page 15

R. Rojas

A. Yes.

Q. Did you also receive any payments in cash from the company?

A. No, sir.

Q. Did you ever read the complaint in this case?

A. No, sir.

Q. The complaint in the action in paragraph 11 states the following. It says, quote, In addition to his weekly wages paid by check, plaintiff Rojas was given approximately \$20 to \$70 a week in cash.

THE INTERPRETER: Would you repeat it again. He didn't understand.

Q. I'm going to read to you a sentence that's in the complaint.

A. Yes, sir.

Q. Then I'm going to ask you whether that is correct or incorrect. "In addition to his weekly wages paid by check, plaintiff Rojas was given approximately \$20 to \$70 a week in cash."

A. No. 15 to \$20 a week in cash.

Q. When I asked you before, you said you didn't receive any cash?

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Page 16

R. Rojas

A. Well, you didn't refer to -- I thought you meant if the cash was together with the check.

Q. Who gave you the cash?

A. The supervisor could take the envelope and leave it in the office. And then we would receive our check. The envelope.

Q. How often did you receive cash?

A. Weekly.

Q. Did anyone tell you what this cash was for?

A. No, sir.

Q. Did you ever ask anyone what this cash was for?

A. Never.

Q. Did anyone ever tell you this was pay for your lunch hour?

A. No, sir.

Q. Did there ever come a time when the company began to pay you for your lunch hour?

A. No, sir.

Q. Did you report the cash you received from the company on your tax returns?

A. No, sir.

Q. When you worked at the garage, was your

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Page 17

R. Rojas

job to park cars?

A. Receive them, check them in, park them. Turn them -- give them back to the people. Cleaning. Everything.

Q. Did you ever receive tips from customers?

A. Sometimes they gave something. Something.

Q. Did you ever give those tips to your supervisor?

A. No, sir.

Q. Did you ever tell your supervisor how much you received in tips?

A. No, sir.

Q. Did your supervisor ever ask you to give him those tips?

A. No, sir.

Q. Did you ever share any tips you received with any other employees at the garage?

A. Yes, sir.

Q. Who do you remember giving tips to?

A. I worked with Miguel Alcantara, a man by the name of Jose. I forget the other names.

Q. Approximately how much did you receive

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Page 42

Page 43

F. Santana

to your paycheck?

A. No, from 2007 on, no.

Q. When did you stop receiving cash in addition to your paycheck?

A. I don't remember, but it was last year. I don't remember what date exactly.

Q. Are you referring to 2007 or 2006?

A. 2006.

Q. Was it early in the year in 2006 or late in the year in 2006 that you stopped receiving cash in your paycheck?

A. Towards the end. End of 2006.

Q. When you would receive cash in addition to your paycheck, how much cash would you receive in a week?

A. \$15, \$20. If I worked seven days and I told Raj about it, they would give me maybe \$30, \$40 sometimes.

Q. Did you ever receive more than \$40 in cash a week?

A. No.

Q. Paragraph 13 of the complaint in this case states that, "Plaintiff Santana was given approximately \$20 to \$70 a week in cash."

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F. Santana

Is that a correct statement?

A. \$20 yes, but not 70.

Q. Why did you receive cash in addition to your paycheck?

A. I don't know.

Q. Who gave you the cash when you received it?

A. The supervisor Raj.

Q. Did Raj say anything when he handed you the cash?

A. He would leave it for me most of the times when I wasn't there, or whatever, with the check in an envelope, in the cabinet. I would find the envelope there with maybe 15, \$20. It varied. In cash.

Q. Prior to the end of 2006, did you receive cash every week?

A. Yes, there was always something.

Q. Did you keep any record of how much cash you received each week?

A. No.

Q. Did you declare on your income tax form the amount of cash that you received?

A. In my taxes -- no.

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Page 44

Page 45

F. Santana

Q. Why did you stop receiving cash at the end of 2006?

A. I don't know. I don't know.

Q. Isn't it a fact that you stopped receiving cash because you started being paid for meal breaks?

MR. FAILLACE: Objection.

A. My lunch break that they paid -- they never paid me lunch breaks. Lunch hours. I never took a lunch.

Q. You're alleging that the company didn't pay you for your lunch hour; isn't that correct?

A. Yes, of course.

Q. Are you currently being paid for your lunch hour?

A. Now? If they are paying it now?

Q. Yes.

A. Yes.

Q. When did the company start paying you for your lunch hour?

A. Now in 2007.

Q. When in 2007 did the company start paying you for your lunch hour?

A. I don't know exactly.

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F. Santana

Q. Is it early in 2007?

A. I couldn't tell you. I don't remember.

Q. Have you kept any of your pay stubs?

A. Stuff from the check?

Q. Yes.

A. Yes.

RQ MS. WHITE: I'm going to call for the production of Mr. Santana's pay stubs.

Q. Did you take any documents from any of the garages?

A. No, never.

Q. Do you know an individual by the name of Samuel Gerraro?

A. Samuel, yes, I know him. I relieve him at the parking lot.

Q. When was the last time you spoke to Mr. Gerraro?

A. With Samuel -- I have no conversations with him. I just -- when he relieves me, I just say hello. That's it.

Q. Have you ever talked to Mr. Gerraro about your claims in this litigation?

A. No, never. When I finish my job, I go home to rest. I've been working the whole night.

TSG Reporting - Worldwide 877-702-9580



Page 54

Page 55

1 L. Luna

2 A. No.

3 Q. Your paycheck never listed overtime

4 hours?

5 A. No, no.

6 Q. If you look at the very first page of  
7 Exhibit 2 that's in front of you right here, see  
8 where it says "regular"? "Forty hours at 5.15,"  
9 Do you see that?

10 A. Yes.

11 Q. And do you see under that it says  
12 overtime?13 A. But they didn't give us that on the  
14 check. They would give it to us cash.

15 MR. FAILLACE: He didn't say that.

16 THE INTERPRETER: No?

17 MR. FAILLACE: No.

18 Q. Could you repeat what you just said for  
19 the interpreter?20 A. That money was not given to us on the  
21 check. The overtime, no.22 Q. So right here where it says overtime --  
23 six hours. Do you see that on here? And it says  
24 that at a rate of \$7.25 per hour. Do you see  
25 that?

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Page 56

Page 57

1 L. Luna

2 Q. Do you understand that the overtime  
3 rate of pay was one and a half times your regular  
4 rate of pay?5 A. The overtime, yes. Yes, that's time  
6 and a half.7 Q. Did you receive time and a half for  
8 your overtime hours?9 MR. FAILLACE: He was asking. He  
10 was asking.11 Q. He was asking? What were you asking?  
12 I'm sorry.13 A. No, I'm telling you that time and a  
14 half -- that's the hour for overtime.15 Q. Right. Do you agree that you were paid  
16 time and a half for the overtime hours that you  
17 worked?

18 A. Yeah, the overtime.

19 Q. You testified that you received cash in  
20 addition to your check, correct?

21 A. When you work more.

22 Q. Why did you receive -- explain to me  
23 why you received cash in addition to your check.24 A. Because it goes over the 40 hours of  
25 the five days of work.

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1 L. Luna

2 A. Yes.

3 Q. And you see across it says "for this  
4 period, \$46.35," correct? And that's in addition  
5 to \$206 of regular pay. Do you see that?

6 A. Yes.

7 Q. For a total gross pay of 252.35.

8 A. Yes. But they would give that to us in  
9 cash.10 Q. Okay. Do you see where it says "net  
11 pay" on here, "\$218.79"? Please look at Exhibit  
12 2. Would you receive in that check the entire  
13 amount of net pay?14 A. I don't remember. But if it says so, I  
15 am sure that -- but I don't remember.16 Q. Let me rephrase my question. These  
17 paychecks that you have in front of you, the pay  
18 stubs, reflect that you were paid by check for at  
19 least some overtime hours; isn't that correct?20 A. Yes. They would give it to me on a  
21 check.22 Q. Okay. That's my question. Thank you.  
23 Do you understand what the term "time  
24 and a half" means?

25 A. No.

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1 L. Luna

2 Q. So let me -- I'm trying to understand  
3 your testimony. Is your testimony that you  
4 received cash to compensate you for hours that you  
5 worked in addition to the hours that were  
6 compensated in your paycheck?7 A. Yes. Because that was when you went  
8 over the time. When you work seven days -- if you  
9 work more than seven days -- five days -- for  
10 instance, if you work seven days, they would give  
11 you 40 to \$45 for that.

12 Q. Who gave you the cash?

13 A. Raj.

14 Q. Isn't it true that some of the cash  
15 that you received was to compensate you for a  
16 lunch hour or a meal break during your shift?17 A. No, we never got breaks. There were no  
18 breaks.19 Q. Did you keep a record of the amount of  
20 cash that you received?21 A. The check. No, no. Now that you're  
22 mentioning cash -- no, no. There was no receipt.  
23 nothing.24 Q. Did you make any note of the amount of  
25 cash that you received?

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Page 66

1 L. Luna

2 Would you like the interpreter to  
3 repeat to your witness the objection that  
4 you made?5 MR. FAILLACE: I have asked her  
6 repeated times to do so, but she didn't  
7 do it.8 MS. WHITE: Right now are you  
9 asking her?10 MR. FAILLACE: I mean, she knows  
11 what to do. I don't have to repeat it to  
12 her. She's a smart lady.13 MS. WHITE: I'm going to ask the  
14 interpreter to repeat -- if the court  
15 reporter could repeat back Mr. Faillace's  
16 first objection. And we will repeat it  
17 to the witness so that the witness hears  
18 all that is going on today.

19 (Record read.)

20 Q. Just to clarify, I'm not trying to  
21 mischaracterize your testimony. I'm just trying  
22 to understand. For the hours that you worked that  
23 were not reflected on your paycheck, did you  
24 receive cash to compensate you for those hours?

25 MR. FAILLACE: Objection. Already

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Page 68

1 L. Luna

2 MR. FAILLACE: Objection. He  
3 already answered.

4 A. No.

5 Q. Did you ever take a meal break during  
6 your shift?

7 A. No.

8 Q. Did you ever eat while you were on your  
9 shift?10 A. We eat like that. Running and working  
11 and eating, because it was very busy.12 Q. Is it your testimony that you would eat  
13 food while you were working?14 A. Every five minutes a car would come.  
15 So we would have to leave our food and take care  
16 of the car and go back. We had to leave our food  
17 and we had to run.18 Q. Did you ever leave the premises to go  
19 get food?

20 A. No.

21 Q. Did you bring the food into work with  
22 you?

23 A. Yes.

24 Q. Did anyone tell you that you were  
25 entitled to a meal break?

TSG Reporting - Worldwide 877-702-9580

Page 67

1 L. Luna

2 answered.

3 Q. You can answer the question.

4 A. On the seven days -- on the seven days  
5 you mean? They gave us 40 to 45.6 Q. Previously your testimony was that you  
7 worked seven days in a week for a period of about  
8 four months; is that correct?9 A. For eight to ten weeks we worked seven  
10 days a week.11 Q. And in those weeks your testimony is  
12 that you received 40 to \$45 in cash for the extra  
13 time that you worked; is that correct?

14 A. Yes.

15 Q. Other than those eight to ten weeks  
16 that you were just testifying about, were you  
17 compensated for the hours that you worked?

18 A. No.

19 Q. What were you not compensated for?

20 A. The lunch time.

21 Q. Were you not compensated for anything  
22 else?

23 A. No.

24 Q. Thank you. Did you ever leave the  
25 premises during a shift?

TSG Reporting - Worldwide 877-702-9580

Page 69

1 L. Luna

2 A. Yes.

3 Q. Who told you that you were entitled to  
4 a meal break?5 A. The same customers would tell me that I  
6 had a right to have a moment to eat.7 Q. Did anyone at the company tell you that  
8 you are entitled to a meal break?9 A. No. From the company, no. The  
10 customers would.11 MS. WHITE: I'm going to mark this  
12 as Luna Exhibit 3.13 (Luna Exhibit 3, SP Payroll  
14 document, marked for identification, as  
15 of this date.)16 Q. Mr. Luna, if you'll take a look at the  
17 document that is in front of you that has been  
18 marked Exhibit 3. Is that your signature at the  
19 bottom of the document?

20 A. Yes, that's my signature.

21 Q. Do you recognize what this document is?

22 A. No.

23 Q. Did you read this document before you  
24 signed it?

25 A. No.

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Page 22

M. Alcantara

A. No.

Q. When you worked at the garages at 155 or 145, did you work with any other employees on your shift?

A. Sometimes one person worked. Sometimes two. At 145, only two people worked.

Q. What about at 155, how many --

A. I've even worked alone at 145. At 155 two of us worked, and sometimes three.

Q. How often would you work by yourself at 145?

A. I only worked there alone twice.

Q. Have you ever paid another employee to work a shift for you?

A. No.

Q. Has an employee ever paid you for working a shift for them?

A. No. Not even.

Q. In this lawsuit, what is it that you're claiming you were not paid for?

A. First of all, they haven't paid me a lunch hour. One hour for every day that I worked that they used to take away.

Q. Are you claiming that you weren't paid

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Page 24

M. Alcantara

that they reduced my hours. I believe they reduced it because I complained about the hour. It was like a punishment.

Q. When was it that your hours were reduced to 48 hours?

A. That's when I was working. One time I called Pablo before I left. I called him to explain to him that I was -- I was claiming the hours that they owed me. And he told me he was going to speak to Sam about it, but that they were in no condition to pay those extra hours.

Q. In what year did you make this complaint?

A. I always complained about it, but it seems that at the end they punished me and lowered my hours.

Q. Your hours were lowered to 48 hours for only two weeks -- one to two weeks?

MR. FAILLACE: Objection. Already answered.

A. One or two weeks, yes.

Q. Did your hours increase after those two weeks to more than 48 hours a week?

A. Then I started working regular, yes.

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Page 23

M. Alcantara

for anything else other than your lunch hour?

A. No, they did not pay me. And also according to law, after you work 10 hours they're supposed to pay one hour additional. They didn't pay that either. I always worked 12 hours.

Q. Other than the lunch hour, and the extra hour after working 10 hours, are there any other hours of time that you're claiming you weren't paid for in this case?

A. The extra hours worked after 40 hours a week. I only received 15 to \$20 to compensate for that -- cash. Besides the check. The other hours were paid regular.

Q. Were you paid at least minimum wage for the first 40 hours that you worked each week?

A. Minimum wage.

Q. Did there come a time when your work schedule was reduced to 48 hours a week?

A. I don't remember whether it was three or four days that I worked. Up to 48 hours.

Q. Was there ever a time that your regular schedule for each week was decreased to 48 hours per week?

A. That only happened for one or two weeks

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Page 25

M. Alcantara

Q. In what year was it that your hours -- that for two weeks you worked 48 hours?

A. 2006. That was like to placate me.

Q. Immediately prior to your employment terminating in October of 2006, were you still working the seven p.m. to seven a.m. shift?

A. Can you repeat the question?

Q. I will rephrase. In October 2006 right before your employment terminated, what was your shift?

A. Seven to seven.

Q. Did you ever leave the work premises during a shift?

A. I never left my job.

Q. Did you ever take a break to eat a meal during your shift?

A. Never took a break. I was always busy.

Q. Did you ever see any of the other employees take a break during the shift?

A. No. We were always taking care of the vehicles. Whether it be giving them in, or bringing them in -- receiving them, or giving them back. Cleaning the bathroom, garage area. It was always busy. The parking lot where we were

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